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Letter dated 7 June 2013 from the Permanent Representative of the United Kingdom of Great Britain and Northern Ireland to the United Nations addressed to the Secretary-General

I have the honour to inform you that, under the Presidency of the United Kingdom of Great Britain and Northern Ireland, the Security Council will hold an open debate on "Women and peace and security: sexual violence in conflict" on Monday, 24 June 2013. In order to help steer the discussions on the subject, the United Kingdom has prepared the attached concept note (see annex).

I would be grateful if the present letter and its annex could be circulated as a document of the Security Council.

(*Signed*) Mark **Lyall Grant**

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Annex to the letter dated 7 June 2013 from the Permanent Representative of the United Kingdom of Great Britain and Northern Ireland to the United Nations addressed to the Secretary-General

Concept note for the Security Council open debate on women and peace and security: sexual violence in conflict

Addressing impunity: effective justice for crimes of sexual violence in conflict

24 June 2013

I. Background

1. Sexual violence in conflict is widespread. It affects not only large numbers of women and girls but also men and boys. In addition to the physical and psychological trauma suffered by survivors, sexual violence in conflict can exacerbate ethnic, sectarian and other divisions, further entrench conflict and instability, and undermine opportunities for the restoration of peace and stability. Sexual violence in conflict is a fundamental peace and security concern.

2. Sexual violence in conflict has a number of manifestations. It is sometimes used as a deliberate tactic or strategy by one group against another with the intention of destroying, degrading or humiliating political opponents or members of ethnic and religious groups. It is sometimes the result of the individual behaviours of poorly trained and ill-disciplined armed forces. Often, it can be invisible, opportunistic assaults by acquaintances or family members, which can escalate when society breaks down. Yet, the result remains the same: a devastating effect on individuals and their communities and the collapse of established social norms and structures, leading to detrimental impacts on future opportunities for peace and security.

3. In its resolutions 1820 (2008), 1888 (2009) and 1960 (2010), the Security Council affirmed that sexual violence, when committed systematically and used as a tool of war, is a fundamental threat to international peace and security and requires an operational security and judicial response. Through these and other resolutions, including resolution 1325 (2000), the Council has put in place a solid framework to prevent and address conflict-related sexual violence. It has repeatedly emphasized the responsibility of all States to put an end to impunity and to prosecute those responsible for genocide, crimes against humanity and war crimes, including those relating to sexual and other violence against women and girls. Yet, such violations continue to occur.

4. The vast majority of survivors of conflict-related sexual violence never receive justice. The culture of impunity that stems from this serves to exacerbate conflict cycles since it weakens the deterrence factor of judicial redress, and the absence of effective justice inhibits the re-establishment of acceptable social norms and ultimately wider social stability. The restoration of visible mechanisms of accountability through the rule of law requires that perpetrators be held to account and punished. This is essential for any conflict or post-conflict society seeking to

come to terms with both past and present abuses and to prevent their reoccurrence. As an integral part of its commitment to peace and stability, the international community must move urgently to replace a culture of impunity with one of deterrence that promotes the need for justice, accountability and the rule of law and supports the re-establishment of wider stability. The Ministers for Foreign Affairs of the Group of Eight recently demonstrated this commitment, continuing the growing momentum behind the issue and agreeing on practical commitments at their meeting on 11 April 2013. Strengthening existing justice frameworks and mechanisms, striving for an increase in the number of successful prosecutions for rape and sexual violence committed in conflict and providing longer-term investment in prevention and support to survivors must be part of the international community's broader security, development and humanitarian efforts.

5. The Security Council has an important role to play, in particular in emphasizing the importance of national authorities strengthening their rule of law response. In that regard, the Council, in paragraph 8 of its resolution 1888 (2009), called upon the Secretary-General to deploy rapidly a team of experts to situations of particular concern in order to assist national Governments by, inter alia, working closely with their civilian and military justice systems to address impunity. The Council also encouraged the development of joint Government-United Nations Comprehensive Strategies to Combat Sexual Violence (see para. 23 of the resolution) in order to ensure a holistic approach for the provision of the range of services — health-care, psychosocial and legal — required by survivors. Additional references in Security Council documentation to national-level accountability and international support to national institutions and strategies relating to sexual violence in conflict are set out in the enclosure to the present note.

6. The Security Council's continued engagement through the adoption of thematic and country-specific resolutions, and its support to the Office of the Special Representative of the Secretary-General on Sexual Violence in Conflict and the Team of Experts on the Rule of Law and Sexual Violence in Conflict will provide the critical international impetus and a comprehensive framework in support of national action. The imperative of national ownership, leadership and responsibility is one of the Secretary-General's central themes in his latest report on sexual violence in conflict (A/67/792-S/2013/149), consistent with the emphasis of the Council that national Governments bear the primary legal and moral responsibility for the protection of civilian populations.

II. Focus of the debate

7. Building on the report of the Secretary-General and the Security Council debate hosted by Rwanda on 17 April 2013, the United Kingdom of Great Britain and Northern Ireland will convene an open debate on 24 June to examine the role the United Nations can play in supporting States to end the culture of impunity and the responsibility of States in enabling survivors to pursue justice through making justice systems accessible, appropriate and non-discriminatory. The debate held in April provided Council members an opportunity to address the report of the Secretary-General, thus setting the basis for the upcoming debate's more specific and strategic focus on a particular aspect within the wider framework of conflict-related sexual violence.

III. Objectives of the debate

8. Specifically participants are encouraged to consider:

- Exploring how the different processes and mechanisms of restorative and punitive justice, for example, national and international courts, mobile courts and mixed tribunals or broader truth and reconciliation commissions, can be made more effective and mutually reinforcing in providing justice to survivors of sexual violence and in contributing to peace and security
- How international justice mechanisms can support the restoration or establishment of justice and accountability at the national level
- Specific challenges in establishing and using such mechanisms and how they might be overcome in the future
- Incentives and disincentives for national Governments to focus on delivering accountability through their own justice systems
- How the international community can best support national Governments in meeting their own justice and accountability challenges
- How to best support the efforts of the Office of the Special Representative of the Secretary-General on Sexual Violence in Conflict in that respect.

IV. Participation and briefers

9. The debate will be held at the ministerial level and will be chaired by the Secretary of State for Foreign and Commonwealth Affairs of the United Kingdom, William Hague. Briefers will include the Secretary-General, Ban Ki-Moon, and the Special Representative of the Secretary-General on Sexual Violence in Conflict, Zainab Bangura.

Enclosure

References in Security Council documentation to national-level accountability and international support to national institutions and strategies relating to sexual violence in conflict

Resolution 1820 (2008): Women and peace and security

4. *Notes* that rape and other forms of sexual violence can constitute a war crime, a crime against humanity, or a constitutive act with respect to genocide, *stresses the need for* the exclusion of sexual violence crimes from amnesty provisions in the context of conflict resolution processes, and *calls upon* Member States to comply with their obligations for prosecuting persons responsible for such acts, to ensure that all victims of sexual violence, particularly women and girls, have equal protection under the law and equal access to justice, and *stresses* the importance of ending impunity for such acts as part of a comprehensive approach to seeking sustainable peace, justice, truth, and national reconciliation;

Resolution 1888 (2009): Women and peace and security

Eighth preambular paragraph

Reaffirming that ending impunity is essential if a society in conflict or recovering from conflict is to come to terms with past abuses committed against civilians affected by armed conflict and to prevent future such abuses, *drawing attention* to the full range of justice and reconciliation mechanisms to be considered, including national, international and "mixed" criminal courts and tribunals and truth and reconciliation commissions, and *noting* that such mechanisms can promote not only individual responsibility for serious crimes, but also peace, truth, reconciliation and the rights of the victims,

6. *Urges* States to undertake comprehensive legal and judicial reforms, as appropriate, in conformity with international law, without delay and with a view to bringing perpetrators of sexual violence in conflicts to justice and to ensuring that survivors have access to justice, are treated with dignity throughout the justice process and are protected and receive redress for their suffering;

8. *Calls upon* the Secretary-General to identify and take the appropriate measures to deploy rapidly a team of experts to situations of particular concern with respect to sexual violence in armed conflict, working through the United Nations presence on the ground and with the consent of the host Government, to assist national authorities to strengthen the rule of law, and *recommends* making use of existing human resources within the United Nations system and voluntary contributions, drawing upon requisite expertise, as appropriate, in the rule of law, civilian and military judicial systems, mediation, criminal investigation, security sector reform, witness protection, fair trial standards, and public outreach; to, inter alia:

(a) Work closely with national legal and judicial officials and other personnel in the relevant Governments' civilian and military justice systems to address impunity, including by the strengthening of national capacity, and drawing attention to the full range of justice mechanisms to be considered;

(b) Identify gaps in national response and encourage a holistic national approach to address sexual violence in armed conflict, including by enhancing criminal accountability, responsiveness to victims, and judicial capacity;

9. *Encourages* States, relevant United Nations entities and civil society, as appropriate, to provide assistance in close cooperation with national authorities to build national capacity in the judicial and law enforcement systems in situations of particular concern with respect to sexual violence in armed conflict;

23. *Urges* relevant Special Representatives and the Emergency Relief Coordinator of the Secretary-General, with strategic and technical support from the UN Action network, to work with Member States to develop joint Government-United Nations Comprehensive Strategies to Combat Sexual Violence, in consultation with all relevant stakeholders, and to regularly provide updates on this in their standard reporting to Headquarters;

Resolution 2098 (2013): Democratic Republic of the Congo

12. *Authorizes* MONUSCO [United Nations Organization Stabilization Mission in the Democratic Republic of the Congo], through its military component, in pursuit of the objectives described in paragraph 11 above, to take all necessary measures to perform the following tasks, through its regular forces and its Intervention Brigade as appropriate;

(d) Provision of support to national and international judicial processes

Support and work with the Government of the Democratic Republic of the Congo to arrest and bring to justice those responsible for war crimes and crimes against humanity in the country, including through cooperation with States of the region and the ICC [International Criminal Court];